

Senate File 183 - Introduced

SENATE FILE 183

BY ZAUN

A BILL FOR

1 An Act relating to proof of identification and proof of
2 residence in order to register to vote or to vote,
3 establishing a criminal offense for falsely swearing
4 certain oaths and affidavits, and including applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

VOTER IDENTIFICATION REQUIREMENTS

Section 1. Section 39A.2, subsection 1, paragraph b, Code 2015, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Falsely swears to an oath required pursuant to section 49.77, subsection 3, or an affidavit pursuant to section 49.81, subsection 5, paragraph "b".

Sec. 2. Section 48A.7A, subsection 1, paragraph a, Code 2015, is amended to read as follows:

a. A person who is eligible to register to vote and to vote may register on election day by appearing in person at the polling place for the precinct in which the individual resides and completing a voter registration application, making written oath, and providing proof of identity and residence proof of residence pursuant to paragraph "b".

Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code 2015, is amended by striking the paragraph and inserting in lieu thereof the following:

b. (1) For purposes of this section, a person may establish identity by showing proof of identification as required in section 49.77, subsection 3.

(2) For purposes of this section, a person may establish proof of residence using a proof of identification document described in section 49.77, subsection 3, paragraph "b", if the proof of identification contains the person's current address in the precinct. If the proof of identification does not contain the person's current address in the precinct, to establish proof of residence the person shall also present one of the following documents that shows the person's name and current address in the precinct:

- (a) Utility bill.
- (b) Bank statement.
- (c) Paycheck.
- (d) Government check.
- (e) Other government document.

1 Sec. 4. Section 48A.7A, subsections 2 and 3, Code 2015, are
2 amended to read as follows:

3 2. The oath required in subsection 1, paragraph "a", and
4 in paragraph "c", if applicable, shall be executed on the
5 same piece of paper and attached to the voter registration
6 application.

7 3. At any time before election day, and after the deadline
8 for registration in section 48A.9, a person who appears in
9 person at the commissioner's office or at a satellite absentee
10 voting station or whose ballot is delivered to a health care
11 facility pursuant to section 53.22 may register to vote and
12 vote an absentee ballot by following the procedure in this
13 section for registering to vote on election day. A person who
14 wishes to vote in person at the polling place on election day
15 and who has not registered to vote before the deadline for
16 registering in section 48A.9, is required to register to vote
17 at the polling place on election day following the procedure
18 in this section. However, the person may complete the voter
19 registration application at the commissioner's office and,
20 after the commissioner has reviewed the completed application,
21 may present the application to the appropriate precinct
22 election official along with proof of ~~identity and residency~~
23 identification and proof of residence.

24 Sec. 5. Section 49.53, subsection 1, Code 2015, is amended
25 to read as follows:

26 1. The commissioner shall not less than four nor more than
27 twenty days before the day of each election, except those for
28 which different publication requirements are prescribed by law,
29 publish notice of the election. The notice shall contain a
30 facsimile of the portion of the ballot containing the first
31 rotation as prescribed by section 49.31, subsection 2, and
32 shall show the names of all candidates or nominees and the
33 office each seeks, and all public questions, to be voted upon
34 at the election. The sample ballot published as a part of the
35 notice may at the discretion of the commissioner be reduced in

1 size relative to the actual ballot but such reduction shall not
 2 cause upper case letters appearing in candidates' names or in
 3 summaries of public measures on the published sample ballot to
 4 be less than nine point type. The notice shall also state the
 5 date of the election, the hours the polls will be open, that
 6 all voters will be required to show proof of identification
 7 before casting a ballot, the location of each polling place at
 8 which voting is to occur in the election, and the names of the
 9 precincts voting at each polling place, but the statement need
 10 not set forth any fact which is apparent from the portion of
 11 the ballot appearing as a part of the same notice. The notice
 12 shall include the full text of all public measures to be voted
 13 upon at the election.

14 Sec. 6. Section 49.77, subsection 3, Code 2015, is amended
 15 by striking the subsection and inserting in lieu thereof the
 16 following:

17 3. a. A precinct election official shall require the voter
 18 to present for inspection proof of identification before being
 19 allowed to vote.

20 b. For purposes of this section, "*proof of identification*"
 21 refers to a document that satisfies all of the following:

22 (1) The document shows the name of the individual to whom
 23 the document was issued which shall conform to the name on the
 24 election register.

25 (2) The document shows a photograph of the individual to
 26 whom it was issued.

27 (3) The document was issued by the government of the
 28 United States, the state of Iowa, an Iowa public or private
 29 university or college, an Iowa secondary school, or a political
 30 subdivision of the state of Iowa. In the case of a document
 31 issued by a political subdivision, the document shall be
 32 issued not later than the close of voter registration for
 33 the applicable election as set forth in section 48A.9 and
 34 shall meet all other requirements established by the state
 35 commissioner by rule.

1 *c.* In lieu of paragraph “*b*”, a person wishing to vote may
 2 establish proof of identity by written oath of the person
 3 wishing to vote and of an attesting person who provides proof
 4 of identification pursuant to paragraph “*b*”. The oath shall be
 5 in the form prescribed by the state commissioner of elections
 6 and shall state the identity and attest to the stated identity
 7 of the person wishing to vote. The oath must be signed by the
 8 attesting person and the person wishing to vote in the presence
 9 of the appropriate precinct election official. A person who
 10 has signed an oath attesting to a person’s identity as provided
 11 in this paragraph is prohibited from signing any further oaths
 12 as provided in this paragraph for the same election. The oath
 13 shall advise the person wishing to vote and the attesting
 14 person that falsely signing such an oath or falsely attesting
 15 to a voter’s identity is a class “D” felony.

16 *d.* The commissioner shall, within forty-five days after
 17 each election, review all attestations received under this
 18 subsection and if any individual is found to have attested for
 19 more than one voter in a particular election, the commissioner
 20 shall immediately notify the state commissioner and the county
 21 attorney.

22 Sec. 7. Section 49.77, Code 2015, is amended by adding the
 23 following new subsection:

24 NEW SUBSECTION. 3A. *a.* If proof of identification or proof
 25 of identity is established under subsection 3, the person shall
 26 be allowed to vote.

27 *b.* If a person is unable or refuses to present proof of
 28 identification, or the precinct election official determines
 29 the proof of identification presented by the person does
 30 not qualify as proof of identification under subsection
 31 3, paragraph “*b*”, or proof of identity under subsection 3,
 32 paragraph “*c*”, the person shall be offered the option to vote a
 33 ballot, but only in accordance with section 49.81.

34 Sec. 8. Section 49.77, subsection 4, paragraph a, Code 2015,
 35 is amended to read as follows:

1 a. A person whose name does not appear on the election
 2 register of the precinct in which that person claims the right
 3 to vote shall not be permitted to vote, unless the person
 4 affirms that the person is currently registered in the county
 5 ~~and presents proof of identity,~~ or the commissioner informs
 6 the precinct election officials that an error has occurred
 7 and that the person is a registered voter of that precinct,
 8 and the person presents proof of identification pursuant to
 9 subsection 3. If the commissioner finds no record of the
 10 person's registration but the person insists that the person
 11 is a registered voter of that precinct, the precinct election
 12 officials shall allow the person to cast a ballot in the manner
 13 prescribed by section 49.81.

14 Sec. 9. Section 49.81, subsection 1, Code 2015, is amended
 15 to read as follows:

16 1. A prospective voter who is prohibited under section
 17 48A.8, subsection 4, section 49.77, subsection 3A, paragraph
 18 "b", section 49.77, subsection 4, section 49.80, ~~or~~ section
 19 53.19, subsection 3, or section 53.22, subsection 1, paragraph
 20 "d", from voting except under this section shall be notified by
 21 the appropriate precinct election official that the voter may
 22 cast a provisional ballot. The voter shall mark the ballot and
 23 immediately seal it in an envelope of the type prescribed by
 24 subsection 4. The voter shall deliver the sealed envelope to a
 25 precinct election official who shall deposit it in an envelope
 26 marked "provisional ballots". The ballot shall be considered
 27 as having been cast in the special precinct established by
 28 section 53.20 for purposes of the postelection canvass.

29 Sec. 10. Section 49.81, subsection 2, paragraph b, Code
 30 2015, is amended to read as follows:

31 b. If the person is casting a provisional ballot because
 32 the person ~~failed~~ was unable or refused to provide a required
 33 form of identification pursuant to section 48A.8, subsection
 34 4, section 49.77, subsection 3A, paragraph "b", section 49.77,
 35 subsection 4, or section 53.22, subsection 1, paragraph "d", a

1 list of the types of acceptable identification and notification
2 that the person must show identification before the ballot can
3 be counted.

4 Sec. 11. Section 49.81, Code 2015, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 5. *a.* If a voter casts a provisional
7 ballot pursuant to section 49.77, subsection 3A, paragraph
8 "b", the precinct election official shall indicate on the
9 provisional ballot envelope that the voter is casting a
10 provisional ballot due to the voter's inability or refusal to
11 present proof of identification.

12 *b.* At the time a provisional ballot is cast the voter may
13 also execute an affidavit in the form prescribed by the state
14 commissioner which shall be attached to the provisional ballot
15 envelope, affirming that the voter is the person the voter
16 claims to be and further affirming either of the following:

17 (1) The voter is indigent and is unable to obtain proof of
18 identification without the payment of a fee.

19 (2) The voter has a religious objection to being
20 photographed.

21 *c.* A provisional ballot cast pursuant to section 49.77,
22 subsection 3A, paragraph "b", which is accompanied by an
23 affidavit executed pursuant to paragraph "b" of this subsection
24 shall be presumed valid by the special precinct board and
25 shall be counted unless additional written statements or
26 documents are delivered to the commissioner's office prior to
27 the date provisional ballots are considered by the special
28 precinct election board and the special precinct election board
29 determines such additional evidence successfully rebuts the
30 presumption of validity.

31 Sec. 12. Section 53.10, subsection 2, Code 2015, is amended
32 to read as follows:

33 2. Each person who wishes to vote by absentee ballot at
34 the commissioner's office shall first sign an application for
35 a ballot including the following information: name, current

1 address, and the election for which the ballot is requested.
 2 The person may report a change of address or other information
 3 on the person's voter registration record at that time. The
 4 person must also provide proof of identification pursuant to
 5 section 49.77, subsection 3, or be offered the option to vote
 6 a provisional ballot pursuant to section 49.77, subsection
 7 3A, paragraph "b", before receiving an absentee ballot. Upon
 8 receipt of the absentee ballot, the registered voter shall
 9 immediately mark the ballot; enclose the ballot in a secrecy
 10 envelope, if necessary, and seal it in the envelope marked
 11 with the affidavit; subscribe to the affidavit on the reverse
 12 side of the envelope; and return the absentee ballot to the
 13 commissioner. The commissioner shall record the numbers
 14 appearing on the application and affidavit envelope along with
 15 the name of the registered voter.

16 Sec. 13. Section 53.22, subsection 1, Code 2015, is amended
 17 by adding the following new paragraph:

18 NEW PARAGRAPH. *d.* Before receiving a ballot under
 19 this subsection, each applicant shall present proof of
 20 identification pursuant to section 49.77, subsection 3, to
 21 the special precinct election board members. If an applicant
 22 is unable to present proof of identification, the applicant
 23 shall have an opportunity to execute an affidavit in the form
 24 prescribed by the state commissioner of elections affirming
 25 that the voter does not have and is unable to obtain proof of
 26 identification and that the voter resides in a hospital or
 27 health care facility and is casting a ballot pursuant to this
 28 section. If the applicant refuses to execute an affidavit, the
 29 voter's ballot shall be considered a provisional ballot cast
 30 pursuant to section 49.81.

31 Sec. 14. Section 321.190, subsection 1, paragraph d, Code
 32 2015, is amended to read as follows:

33 *d.* The fee for a nonoperator's identification card shall
 34 be eight dollars and the card shall be valid for a period of
 35 eight years from the date of issuance. If an applicant for

1 a nonoperator's identification card is a foreign national
 2 who is temporarily present in this state, the nonoperator's
 3 identification card shall be issued only for the length of time
 4 the foreign national is authorized to be present as determined
 5 by the department, not to exceed two years. An issuance fee
 6 shall not be charged for a person whose driver's license or
 7 driving privilege has been suspended under section 321.210,
 8 subsection 1, paragraph "a", subparagraph (3), or voluntarily
 9 surrendered by the person in lieu of suspension under section
 10 321.210, subsection 1, paragraph "a", subparagraph (3), or
 11 for a person obtaining an identification card to be used
 12 under section 49.77, subsection 3, for voting purposes.
 13 Identification cards obtained for voting purposes shall be
 14 labeled by the department as "For Voting Purposes Only".

DIVISION II

CONFORMING PROVISIONS

17 Sec. 15. Section 48A.8, subsection 2, unnumbered paragraph
 18 1, Code 2015, is amended to read as follows:

19 An eligible elector who registers by mail and who has
 20 not previously voted in an election for federal office in
 21 the county of registration shall be required to provide
 22 additional identification documents when voting for the first
 23 time in the county, unless the registrant provided on the
 24 registration form the registrant's Iowa driver's license
 25 number, or the registrant's Iowa nonoperator's identification
 26 card number, or the last four numerals of the registrant's
 27 social security number and the driver's license, nonoperator's
 28 identification, or partial social security number matches
 29 an existing state or federal identification record with the
 30 same number, name, and date of birth. If the registrant
 31 is required to show additional identification under this
 32 subsection and votes in person at the polls, or by absentee
 33 ballot at the commissioner's office or at a satellite voting
 34 station, the registrant shall provide a current and valid
 35 photo identification card, or shall present to the appropriate

1 election official one of the following current documents that
2 shows the name and address of the registrant:

3 Sec. 16. Section 48A.8, subsection 4, Code 2015, is amended
4 to read as follows:

5 4. A registrant under subsection 2 who is required to
6 present additional identification when casting a ballot in
7 person shall be permitted to vote a provisional ballot if the
8 voter does not provide the required additional identification
9 documents pursuant to subsection 2. If a voter who is required
10 to present such additional identification when casting a ballot
11 votes an absentee ballot by mail, the ballot returned by the
12 voter shall be considered a provisional ballot pursuant to
13 sections 49.81 and 53.31.

14 Sec. 17. Section 48A.27, subsection 4, paragraph c,
15 subparagraph (2), Code 2015, is amended to read as follows:

16 (2) The notice shall contain a statement in substantially
17 the following form:

18 Information received from the United States postal service
19 indicates that you are no longer a resident of, and therefore
20 not eligible to vote in (name of county) County, Iowa. If this
21 information is not correct, and you still live in (name of
22 county) County, please complete and mail the attached postage
23 paid card at least ten days before the primary or general
24 election and at least eleven days before any other election at
25 which you wish to vote. If the information is correct and you
26 have moved, please contact a local official in your new area
27 for assistance in registering there. ~~If you do not mail in~~
28 ~~the card, you may be required to show identification before~~
29 ~~being allowed to vote in (name of county) County.~~ If you do not
30 return the card, and you do not vote in an election in (name
31 of county) County, Iowa, on or before (date of second general
32 election following the date of the notice) your name will be
33 removed from the list of voters in that county.

34 Sec. 18. Section 48A.29, subsection 1, paragraph b, Code
35 2015, is amended to read as follows:

1 *b.* The notice shall contain a statement in substantially the
2 following form:

3 Information received from the United States postal service
4 indicates that you are no longer a resident of (residence
5 address) in (name of county) County, Iowa. If this information
6 is not correct, and you still live in (name of county) County,
7 please complete and mail the attached postage paid card at
8 least ten days before the primary or general election and at
9 least eleven days before any other election at which you wish
10 to vote. If the information is correct, and you have moved,
11 please contact a local official in your new area for assistance
12 in registering there. ~~If you do not mail in the card, you may~~
13 ~~be required to show identification before being allowed to vote~~
14 ~~in (name of county) County.~~ If you do not return the card, and
15 you do not vote in some election in (name of county) County,
16 Iowa, on or before (date of second general election following
17 the date of the notice) your name will be removed from the list
18 of voters in that county.

19 Sec. 19. Section 48A.29, subsection 3, paragraph b, Code
20 2015, is amended to read as follows:

21 *b.* The notice shall contain a statement in substantially the
22 following form:

23 Information received by this office indicates that you are no
24 longer a resident of (residence address) in (name of county)
25 County, Iowa. If the information is not correct, and you still
26 live at that address, please complete and mail the attached
27 postage paid card at least ten days before the primary or
28 general election and at least eleven days before any other
29 election at which you wish to vote. If the information is
30 correct, and you have moved within the county, you may update
31 your registration by listing your new address on the card and
32 mailing it back. If you have moved outside the county, please
33 contact a local official in your new area for assistance in
34 registering there. ~~If you do not mail in the card, you may be~~
35 ~~required to show identification before being allowed to vote in~~

1 ~~(name of county) County.~~ If you do not return the card, and you
2 do not vote in some election in (name of county) County, Iowa,
3 on or before (date of second general election following the
4 date of the notice) your name will be removed from the list of
5 registered voters in that county.

6 DIVISION III

7 APPLICABILITY

8 Sec. 20. APPLICABILITY. This Act applies to elections held
9 on or after January 1, 2017.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill requires that a person provide certain proof of
14 identification at the time that the person votes and modifies
15 proof of identification and proof of residence requirements for
16 election day and in-person absentee registration.

17 Division I of the bill modifies the proof of identification
18 and proof of residence requirements for election day and
19 in-person absentee registration. The bill requires that
20 acceptable proof of identification is the same proof of
21 identification required of a voter who is already registered
22 to vote. The bill removes residential leases and property tax
23 statements from the list of acceptable documents to provide
24 proof of residence for election day and in-person absentee
25 registration.

26 The bill maintains current law allowing a person wishing
27 to register to vote on election day, or in person when voting
28 an absentee ballot, to establish proof of identity and proof
29 of residence by written oath of a person who is registered to
30 vote in the precinct, but requires that the oath of the person
31 wishing to vote and the registered voter's oath be executed on
32 the same piece of paper.

33 The bill requires that a voter provide proof of
34 identification to a precinct election official before being
35 allowed to vote, and also requires that a person wishing to

1 vote by absentee ballot at a county commissioner of elections
2 office or at a satellite absentee voting station present
3 the same proof of identification. The bill requires that
4 acceptable proof of identification show the name of the
5 individual voter, include a photograph of the voter, and be
6 issued by the government of the United States, the state of
7 Iowa, an Iowa public or private university or college, an Iowa
8 secondary school, or a political subdivision of the state.

9 The bill provides that, in lieu of providing identification
10 in order to vote, a person may establish proof of identity by
11 written oath of the person wishing to vote and of a person who
12 provides their own proof of identification and who attests
13 to the voter's identity. The bill provides that the oath
14 shall be in the form prescribed by the state commissioner of
15 elections, and that the oath shall state the identity of the
16 person wishing to vote and shall attest to the stated identity
17 of the person wishing to vote. The bill requires that the oath
18 be signed by both the attesting person and the person wishing
19 to vote. The bill makes it a class "D" felony to falsely sign
20 an oath pursuant to this provision or to falsely attest to a
21 voter's identity. The bill requires that the oath advise both
22 persons that falsely stating or attesting to a voter's identity
23 is a class "D" felony. A class "D" felony is punishable by
24 confinement for no more than five years and a fine of at least
25 \$750 but not more than \$7,500. The bill provides that an
26 attesting person is prohibited from signing any additional such
27 oaths for the same election.

28 The bill provides that if proof of identification is
29 established the person shall then be allowed to vote. If a
30 person is unable or refuses to present proof of identification,
31 or if the precinct election official determines that the
32 proof of identification does not meet specified requirements,
33 the person shall be offered the option to vote a provisional
34 ballot. If a person is casting a provisional ballot
35 under these circumstances, the person shall receive a

1 printed statement giving notice of the types of acceptable
2 identification and notice that the person is required to show
3 acceptable identification before the provisional ballot can be
4 counted unless the voter executes an affidavit pursuant to Code
5 section 49.81, subsection 5. If a voter casts a provisional
6 ballot for these reasons, the precinct election official shall
7 indicate on the provisional ballot that the voter is casting
8 a provisional ballot due to the voter's inability or refusal
9 to present proof of identification. The bill provides that a
10 voter casting a provisional ballot for this reason may execute
11 an affidavit in the form prescribed by the state commissioner
12 of elections, affirming that the voter is the person the voter
13 claims to be and affirming that the voter is either indigent
14 and unable to obtain proof of identification without the
15 payment of a fee or that the voter has a religious objection to
16 being photographed.

17 The bill makes it a class "D" felony to falsify an affidavit
18 that attests to identity. A class "D" felony is punishable by
19 confinement for no more than five years and a fine of at least
20 \$750 but not more than \$7,500. The bill also provides that
21 any provisional ballot cast accompanied by such an affidavit
22 shall be presumed valid unless additional written statements
23 or documents are delivered to the county commissioner of
24 elections office prior to the date that provisional ballots
25 are considered and the precinct election board determines that
26 such additional evidence successfully rebuts the presumption
27 of validity.

28 The bill also makes changes to the election notice to be
29 published by the county commissioner of elections to require
30 that election notices include a statement that all voters will
31 be required to show proof of identification before casting a
32 ballot.

33 The bill requires that certain persons residing in a
34 hospital or health care facility who apply to vote by absentee
35 ballot shall present proof of identification. If the applicant

1 is unable to present proof of identification they shall be
2 allowed to execute an affidavit in the form prescribed by the
3 state commissioner of elections, stating that the voter does
4 not have and is unable to obtain proof of identification and
5 that the voter resides in a hospital or health care facility.
6 If the applicant refuses to execute such an affidavit and is
7 unable to present proof of identification, the voter is allowed
8 to cast a provisional ballot.

9 The bill also provides that a person obtaining a
10 nonoperator's identification card for the purpose of voting
11 shall not be charged for the issuance of the nonoperator's
12 identification card. The bill requires that nonoperator's
13 identification cards issued to serve as proof of identification
14 for voting be labeled by the department as "For Voting Purposes
15 Only".

16 Division II of the bill makes conforming changes to certain
17 required notices on forms related to voter registration and
18 registration by mail.

19 Division III of the bill provides that the bill applies to
20 elections held on or after January 1, 2017.